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October 22, 2020

VIA ECF

Honorable Debra Freeman, U.S. Magistrate Judge
United States District Court
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *In re Navidea Biopharmaceuticals Litigation, Case No. 19-cv-01578-VEC*

Dear Judge Freeman:

As the Court is aware, we represent Defendant/Counterclaim Plaintiff/Third-Party Complaint Plaintiff Michael M. Goldberg, M.D. (“Dr. Goldberg”) in the above-referenced action. We write as a follow-up to the telephonic conference that was held by the Court on October 20, 2020 during which the Court addressed Dr. Goldberg’s concerns regarding the failure of Plaintiff/Counterclaim Defendant Navidea Biopharmaceuticals, Inc. (“Navidea”) to make advancement payments pursuant to the going-forward advancement protocol reported and recommended by Your Honor and adopted by Judge Caproni with respect to advancement of certain of Dr. Goldberg’s fees and expenses in this action by Navidea. During the conference the Court provided the parties with guidance on how the issue of the billing rates of Dr. Goldberg’s counsel, N. Ari Weisbrot and Gregory Zimmer should be addressed with respect to the protocol and instructed the parties to meet and confer and submit a stipulation embodying that guidance.

Dr. Goldberg provided a proposed stipulation containing the exact substantive provisions contained in the enclosed Proposed Order, which Dr. Goldberg believes embodies exactly the guidance provided by the Court on Wednesday, October 28, but was informed by Navidea’s counsel that it was unavailable to meet and confer on its contents until either yesterday or today. Given that the proposed stipulation contained less than two double-spaced pages of substantive language and only three operative paragraphs, and that it is intended solely to confirm the guidance provided by the Court on the conference, Dr. Goldberg does not believe that constitutes a good faith effort to meet and confer on this issue, especially when viewed in light of the fact that delay on Navidea’s part will simply delay its obligation to make payments to Dr. Goldberg.

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Accordingly, Dr. Goldberg informed Navidea that if comments were not received by the close of business yesterday we would submit the text as a proposed order. It is now 4:00 PM and we still have not received any communication from Navidea or its counsel.

Accordingly, enclosed herein is a Proposed Order containing exactly the same text that was contained in the proposed stipulation provided to Navidea. We respectfully request that you So Order it at your earliest convenience so that Dr. Goldberg can realize the effect of the Court's going-forward advancement protocol.

Thank for your attention to this matter.

Respectfully submitted,

/s/ Gregory Zimmer, Esq.